

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

DEMOCRACY NORTH CAROLINA; *et al.*,

Plaintiffs,

v.

ALAN HIRSCH, in his official capacity as
CHAIR OF THE STATE BOARD OF
ELECTIONS, *et al.*,

Defendants.

Case No. 1:23-CV-878

**LEGISLATIVE DEFENDANTS' MOTION TO DISMISS, OR IN THE
ALTERNATIVE, RECONSIDER THE COURT'S PRIOR ORDER ON
LEGISLATIVE DEFENDANTS' PRIOR MOTION TO DISMISS**

Intervenor-Defendants Philip E. Berger, in his official capacity as President *Pro Tempore* of the North Carolina Senate, and Destin C. Hall, in his official capacity as Speaker of the North Carolina House of Representatives (“Legislative Defendants”), by and through undersigned counsel, file this motion to dismiss Plaintiffs’ complaint for lack of subject matter jurisdiction pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, or in the alternative, reconsider the Court’s prior order denying Legislative Defendants’ motion to dismiss [D.E. 63], pursuant to Rule 54(b). Due to this Court’s recent entry of a consent judgment in concurrent cases with identical facts and nearly identical claims for relief—*Voto Latino, et al. v. Hirsch, et al.*, Case No. 1:23-cv-861, at D.E. 101 (M.D.N.C. 2023), and *Democratic National Committee, et al. v. Hirsch, et al.*, Case No. 1:23-cv-862, at D.E. 98 (M.D.N.C. 2023)—Plaintiffs are afforded their core relief sought and as such, their claims in this matter are completely moot.

In support of this motion, Legislative Defendants contemporaneously file a supporting memorandum of law and incorporate by reference the facts and arguments stated therein. Additionally, in support of this motion, Legislative Defendants submit a true and accurate copy of the consent judgment, which is attached as **Exhibit 1**.

Prior to the filing of this motion, Counsel for Legislative Defendants met and conferred with counsel for all parties. Specifically, on April 29, 2025, the morning after entry of the consent judgment, counsel for Legislative Defendants emailed counsel for requesting to meet and confer. The parties conferred by videoconference on May 1, 2025 and via email from May 6, 2025 to May 12, 2025.

WHEREFORE, for the foregoing reasons, and for those described more fully in Legislative Defendants' memorandum in support, Legislative Defendants respectfully request that the Court grant this motion and dismiss all of Plaintiffs' claims with prejudice.

Respectfully submitted, this the 13th day of May, 2025.

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

/s/ Phillip J. Strach

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Counsel for Legislative Defendants

CERTIFICATE OF SERVICE

I, Phillip J. Strach, hereby certify that on this day the forgoing document was electronically filed with the Clerk of Court using the CM/ECF system, which will provide electronic notice to all counsel of record.

This the 13th day of May, 2025.

**NELSON MULLINS RILEY &
SCARBOROUGH LLP**

/s/ Phillip J. Strach

Phillip J. Strach
N.C. State Bar No. 29456